

# **EXHIBIT E**

SUBSEQUENT PAROLE CONSIDERATION HEARING  
STATE OF CALIFORNIA  
BOARD OF PAROLE HEARINGS

In the matter of the Life )  
Term Parole Consideration )  
Hearing of: ) CDC Number E-91258  
JUSTO ESCALANTE )  
\_\_\_\_\_ )

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

DECEMBER 15, 2005

4:08 P.M.

PANEL PRESENT:

Ms. Margarita Perez, Presiding Commissioner  
Mr. Rufus Morris, Deputy Commissioner

OTHERS PRESENT:

Mr. Justo Escalante, Inmate  
Ms. Marcia Hurst, Attorney for Inmate  
Mr. Jack Delavigne, Deputy District Attorney  
Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

\_\_\_\_\_ No See Review of Hearing  
\_\_\_\_\_ Yes Transcript Memorandum

Kristin Ledbetter, Peters Shorthand Reporting

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1                                    P R O C E E D I N G S

2                    **DEPUTY COMMISSIONER MORRIS:**    We're on  
3 record.

4                    **PRESIDING COMMISSIONER PEREZ:**    Thank you.  
5 Good afternoon, sir. This is a Subsequent  
6 Parole Consideration Hearing for Justo  
7 Escalante, E-S-C-A-L-A-N-T-E, CDC number  
8 E-91258. Today's date is December 15<sup>th</sup>, 2005.  
9 We are located at the Correctional Training  
10 Facility at Soledad. The time is 4:08 p.m.  
11 According to the record, sir, you were received  
12 by the department on April 18<sup>th</sup>, 1991. Your  
13 life term began on May 29<sup>th</sup>, 1991, out of the  
14 County of Los Angeles for the offense of  
15 aggravated mayhem with use of a deadly weapon,  
16 Penal Code Section 205, Penal Code Section  
17 12022(b), Case Number PA004647, Count Two, for  
18 which you were assessed a term of seven years to  
19 life plus one year with a minimum eligible  
20 parole date of May 29<sup>th</sup>, 1998. Sir, the record  
21 also reflects you were convicted of two other  
22 offenses, non-controlling offenses. Both were  
23 transporting sales of controlled substance,  
24 HNS11352(a), both out of Los Angeles, Count One,  
25 Case Number LA005012 and the other Count One,  
26 Case Number A820178. Sir, this hearing is being  
27 tape recorded, and for the purposes of voice

1 identification we're going to go around the room  
2 and ask everyone to identify themselves, stating  
3 their first name, last name, spelling their last  
4 name. When we get to you, sir, I'd like to ask  
5 you to provide us with your CDC number as well.  
6 Okay. I will start with myself and go to my  
7 left. My name is Margarita Perez, P-E-R-E-Z,  
8 Commissioner with the Board of Parole Hearings.

9 **DEPUTY COMMISSIONER MORRIS:** Rufus  
10 Morris, M-O double R-I-S, Deputy Commissioner.

11 **DEPUTY DISTRICT ATTORNEY DELAVIGNE:** Jack  
12 Delavigne, D-E-L-A-V-I-G-N-E, Deputy District  
13 Attorney, LA County.

14 **ATTORNEY HURST:** Marcia Hurst, H-U-R-S-T,  
15 counsel for Mr. Escalante.

16 **INMATE ESCALANTE:** Justo Escalante,  
17 E-S-C-A-L-A-N-T-E, E-91258.

18 **PRESIDING COMMISSIONER PEREZ:** Okay.  
19 Very good, sir. I note for the record that we  
20 have two correctional officers in the room.  
21 They will not be participating in today's  
22 hearing. They are here for the purposes of  
23 security. Sir, before we begin, there's a light  
24 blue document sitting in front of you. Would  
25 you read that out loud for me, please.

26 **INMATE ESCALANTE:** Which one?

27 **PRESIDING COMMISSIONER PEREZ:** The blue

1 one.

2 **INMATE ESCALANTE:** The blue one.

3 "The Americans with Disabilities  
4 Act, ADA, is a law to help people  
5 with disabilities. Disabilities  
6 are problems that make it harder  
7 for some people to see, hear,  
8 breathe, talk walk, learn, think,  
9 work, or take care of themselves  
10 than it is for others. Nobody can  
11 be kept out of public places and  
12 activities because of a  
13 disability. If you have a  
14 disability, you have the right to  
15 ask for help to get ready for your  
16 Board of Parole Hearings, BPH, get  
17 to the hearing, talk, read form  
18 and papers, and understand the  
19 hearing process. BPH will look at  
20 what you ask for to make sure that  
21 you have a disability that is  
22 covered by the ADA and that you  
23 have asked for the right kind of  
24 help. If you do not get help or  
25 if you don't think you got the  
26 kind of help you need, ask for a  
27 BPH 1074 Grievance Form. You can

1           also get help to fill it out."

2           **PRESIDING COMMISSIONER PEREZ:** Do you  
3 understand what that means, sir?

4           **INMATE ESCALANTE:** Yes.

5           **PRESIDING COMMISSIONER PEREZ:** Can you  
6 tell me what that means in your own words,  
7 please.

8           **INMATE ESCALANTE:** If you have any  
9 problems with myself or disabilities or mental  
10 problems.

11          **PRESIDING COMMISSIONER PEREZ:** That you  
12 can ask for help.

13          **INMATE ESCALANTE:** Yes.

14          **PRESIDING COMMISSIONER PEREZ:** Okay. And  
15 that if you do not receive the assistance you  
16 think you need, then you can file a grievance  
17 form.

18          **INMATE ESCALANTE:** Yes.

19          **PRESIDING COMMISSIONER PEREZ:** Okay. And  
20 I do note for the record that on February 1<sup>st</sup>,  
21 2005, you signed a BPT Form 1073 which is the  
22 Request for Reasonable Accommodations Form in  
23 which you indicated that you have no  
24 disabilities; is that correct, sir?

25          **INMATE ESCALANTE:** Yes.

26          **PRESIDING COMMISSIONER PEREZ:** Okay.  
27 Very good. Do you wear glasses, sir?

1           **INMATE ESCALANTE:** Yeah, I wear glasses.

2           **PRESIDING COMMISSIONER PEREZ:** Will you  
3 require them for today's hearing?

4           **INMATE ESCALANTE:** No.

5           **PRESIDING COMMISSIONER PEREZ:** Are you  
6 hearing impaired?

7           **INMATE ESCALANTE:** No.

8           **PRESIDING COMMISSIONER PEREZ:** Have you  
9 ever or are you currently on psychotropic  
10 medications?

11          **INMATE ESCALANTE:** No.

12          **PRESIDING COMMISSIONER PEREZ:** Are you  
13 currently on any medication whatsoever?

14          **INMATE ESCALANTE:** No.

15          **PRESIDING COMMISSIONER PEREZ:** Okay. You  
16 received your GED in 2000; is that right?

17          **INMATE ESCALANTE:** Yes.

18          **PRESIDING COMMISSIONER PEREZ:** Okay.  
19 Very good. Counsel, have all ADA issues been  
20 addressed to the best of your knowledge?

21          **ATTORNEY HURST:** Yes, they have.

22          **PRESIDING COMMISSIONER PEREZ:** Thank you.  
23 Sir, this hearing is being conducted pursuant to  
24 Penal Code Sections 3041 and 3042 and the rules  
25 and regulations of the Board of Parole Hearings  
26 governing Parole Consideration Hearings for life  
27 inmates. If at any time during today's hearing



1 we're talking too fast or if you don't  
2 understand something that we're trying to  
3 convey, I want you to let us know right away so  
4 that we can immediately stop, back up, and make  
5 sure, we will make sure that you understand  
6 before we proceed. Okay.

7 **INMATE ESCALANTE:** Okay.

8 **PRESIDING COMMISSIONER PEREZ:** Sir, the  
9 purpose of today's hearing is to once again to  
10 consider your suitability for parole. In doing  
11 so, we will consider the number and nature of  
12 the crime you were committed for, your prior  
13 criminal and social history, as well as your  
14 behavior and programming since your arrival  
15 within the California Department of Corrections  
16 and Rehabilitation. Commissioner Morris and  
17 myself have had the opportunity to review your  
18 record sir, and during today's hearing, you will  
19 have the opportunity to correct or clarify that  
20 record. We will reach a decision today and  
21 inform you of that decision. If we do find you  
22 suitable for parole, we will explain the length  
23 of your confinement to you. Okay.

24 **INMATE ESCALANTE:** Okay.

25 **PRESIDING COMMISSIONER PEREZ:** Sir,  
26 before we recess for deliberations, the District  
27 Attorney, your attorney, and you will have the

1 opportunity to make a closing statement. Your  
2 statement should be limited to why you feel that  
3 you are suitable for parole. We will then  
4 recess, clear the room, and deliberate. Once  
5 we've concluded our deliberations, we will  
6 resume the hearing and announce our decision.  
7 The California Code of Regulations states that  
8 regardless of time served a life inmate shall be  
9 found unsuitable for and denied parole if in the  
10 opinion of the Panel the inmate would pose an  
11 unreasonable risk of danger to society. Do you  
12 understand that, sir?

13 **INMATE ESCALANTE:** Okay.

14 **PRESIDING COMMISSIONER PEREZ:** Okay.

15 Very good. Sir, during today's hearing, you  
16 have certain rights. You have the right to a  
17 timely notice of this hearing; you have the  
18 right to present relevant documents, and you  
19 have the right to review your Central File. And  
20 I do note for the record that on February 1<sup>st</sup>,  
21 2005, you were provided the opportunity to  
22 review your Central File; is that correct, sir?

23 **INMATE ESCALANTE:** Yes.

24 **PRESIDING COMMISSIONER PEREZ:** Did you in  
25 fact review it?

26 **INMATE ESCALANTE:** Yes.

27 **PRESIDING COMMISSIONER PEREZ:** Okay.

1 Very good. Counsel, have all your client's  
2 rights been met to the best of your knowledge?

3 **ATTORNEY HURST:** Yes, they have.

4 **PRESIDING COMMISSIONER PEREZ:** Sir, you  
5 have an additional right, and that is the right  
6 to be heard by an impartial Panel. Do you have  
7 any objections to today's Panel, sir?

8 **INMATE ESCALANTE:** No.

9 **PRESIDING COMMISSIONER PEREZ:** Counsel,  
10 do you have any objections to today's Panel?

11 **ATTORNEY HURST:** No, I don't.

12 **PRESIDING COMMISSIONER PEREZ:** Thank you.  
13 Sir, you will receive a copy of our written  
14 tentative decision today. That decision becomes  
15 effective within 120 days. In the future you  
16 will receive a copy of the decision as well as a  
17 copy of today's transcript. Okay.

18 **INMATE ESCALANTE:** Okay.

19 **PRESIDING COMMISSIONER PEREZ:** Sir, the  
20 Board has eliminated its appeals process. So  
21 what that means in terms of today's hearing,  
22 it's kind of like the 602 process within the  
23 institution. We've eliminated our appeals  
24 process. So what that means is if you disagree  
25 with anything that occurs during today's  
26 hearing, you can go directly to the Court with  
27 your complaint. Do you understand?

1           **INMATE ESCALANTE:**   Okay.

2           **PRESIDING COMMISSIONER PEREZ:**   Do you  
3 understand that?

4           **INMATE ESCALANTE:**   Yes.

5           **PRESIDING COMMISSIONER PEREZ:**   Okay.

6 Very good.   Sir, during today's hearing you are  
7 not required to admit to the offense.   You are  
8 not required to discuss the offense.   However,  
9 it's important for you to understand that this  
10 Panel does accept true the findings of the  
11 Court.   We are not here to retry your case.   We  
12 are here to determine whether or not you are  
13 suitable for parole.   Okay.

14          **INMATE ESCALANTE:**   Okay.

15          **PRESIDING COMMISSIONER PEREZ:**   Mr.  
16 Morris, is there confidential information, and  
17 will we be using it during today's hearing?

18          **DEPUTY COMMISSIONER MORRIS:**   There is  
19 confidential information; however, we will not  
20 be using any.   No.

21          **PRESIDING COMMISSIONER PEREZ:**   Okay.  
22 Sir, I have passed a checklist marked Exhibit  
23 One to your counsel to ensure that we are all  
24 operating off of the same documents, and at this  
25 time I will ask her to verify the accuracy of  
26 that checklist.

27          **ATTORNEY HURST:**   I do have all the

1 documents. Thank you.

2 **PRESIDING COMMISSIONER PEREZ:** I will ask  
3 the same question of the DA.

4 **DEPUTY DISTRICT ATTORNEY DELAVIGNE:** I  
5 have them. Thank you.

6 **PRESIDING COMMISSIONER PEREZ:** Thank you.  
7 Counsel, any additional documents to submit to  
8 this Panel today?

9 **ATTORNEY HURST:** Yes. There is an  
10 additional support letter dated December 4<sup>th</sup>,  
11 2005. I think I can give one but  
12 (indiscernible).

13 **PRESIDING COMMISSIONER PEREZ:** Okay. Do  
14 you have any preliminary objections, counsel?

15 **ATTORNEY HURST:** No.

16 **PRESIDING COMMISSIONER PEREZ:** Will your  
17 client be speaking with us?

18 **ATTORNEY HURST:** He will only be speaking  
19 as to post conviction.

20 **PRESIDING COMMISSIONER PEREZ:** Okay. So  
21 does that mean he will not be speaking about his  
22 criminal history?

23 **ATTORNEY HURST:** That's correct.

24 **PRESIDING COMMISSIONER PEREZ:** Okay.  
25 Will he be discussing personal factors?

26 **ATTORNEY HURST:** No, just post  
27 conviction.

1           **PRESIDING COMMISSIONER PEREZ:** Okay.

2   What about --

3           **ATTORNEY HURST:** Well, current personal  
4   factors and parole plans, no prior social  
5   history, no.

6           **PRESIDING COMMISSIONER PEREZ:** Okay. So  
7   then we would not be discussing personal factors  
8   because that's typically what's covered is  
9   everything, his life prior to CDC.

10          **ATTORNEY HURST:** Right.

11          **PRESIDING COMMISSIONER PEREZ:** Okay. So  
12   the only thing he'll be discussing with me is  
13   his parole plans and post conviction.

14          **ATTORNEY HURST:** And post conviction.

15          **PRESIDING COMMISSIONER PEREZ:** Post  
16   conviction.

17          **ATTORNEY HURST:** Yes. That's correct.

18          **PRESIDING COMMISSIONER PEREZ:** Okay.  
19   Very good.

20          **ATTORNEY HURST:** And if he wants to  
21   change his mind during the course of the  
22   hearing, that's fine too.

23          **PRESIDING COMMISSIONER PEREZ:** It's  
24   certainly your option, sir. Okay. Sir, before  
25   we begin I do need to swear you in nevertheless,  
26   if I can get you to raise your right hand. Do  
27   you solemnly swear or affirm that the testimony

1 you provide will be the truth, the whole truth,  
2 and nothing but the truth?

3 **INMATE ESCALANTE:** Yes.

4 **PRESIDING COMMISSIONER PEREZ:** Okay.

5 Very good. Sir, what I will do is I will read  
6 into the record the commitment offense and your  
7 version according to the counselor's report, and  
8 then after that we'll move on to the next  
9 section in that you have opted not to discuss  
10 the commitment offense. Do you understand  
11 everything I've said so far?

12 **INMATE ESCALANTE:** Yes.

13 **PRESIDING COMMISSIONER PEREZ:** Okay.

14 Very good. I will read into the record the  
15 summary of the crime as well as the prisoner's  
16 version as outlined in the May 2005 counselor's  
17 report prepared by Correctional Counselor One S.  
18 Martinez, M-A-R-T-I-N-E-Z. And the record  
19 states,

20 "On September 10<sup>th</sup>, 1990, at  
21 approximately 4:20 a.m. victim  
22 James Brooks got into an argument  
23 with the prisoner, Justo  
24 Escalante. Escalante wanted to  
25 borrow the victim's car but the  
26 victim refused. Escalante and  
27 some of his friends started

1 hitting and kicking the victim.  
2 While the victim was down,  
3 Escalante struck the victim in the  
4 eye with a knife penetrating the  
5 brain. Escalante was arrested on  
6 September 26<sup>th</sup>, 1990, while in  
7 custody on another matter. The  
8 victim James Brooks told the  
9 probation officer that on the  
10 night of the attack his girlfriend  
11 was arguing with Escalante.  
12 Brooks stated that when he  
13 approached the two Escalante  
14 pulled a knife. Brooks retreated;  
15 however, he slipped in the mud.  
16 Escalante's friends kicked and hit  
17 the victim Brooks, and Escalante  
18 stabbed the victim in the right  
19 eye. The victim says he blacked  
20 out and did not remember anything  
21 until approximately six days  
22 later. The victim further stated  
23 that he used to be a friend of  
24 Escalante's and did not understand  
25 the unprovoked attack. The victim  
26 suffered permanent loss of sight  
27 in his right eye and a frontal



1           lobotomy was performed resulting  
2           in permanent brain damage. The  
3           victim's medical bills were in  
4           excess of 177,000 dollars. The  
5           victim stated that he wanted  
6           Escalante to pay for what he did.  
7           There are no other crime partners  
8           named in the POR."

9   In terms of the inmate's version, the record  
10 reflects,

11           "Inmate Escalante stated that he  
12           is innocent of this crime, noting  
13           that he did not plead guilty but  
14           rather that he was convicted by a  
15           jury trial. Escalante claims that  
16           he did not commit the crime, nor  
17           was he in the area when this crime  
18           occurred. Escalante stated that  
19           he knew the area where the crime  
20           had occurred and had been in the  
21           area before. But according to  
22           Escalante, on that particular  
23           night he was in an apartment  
24           building with a friend far away  
25           from the crime scene. Escalante  
26           points out that it would have been  
27           difficult for him to have

1 committed the crime because the  
2 victim was a large adult male, and  
3 Escalante was much smaller than  
4 the victim. Escalante stated the  
5 first time he ever saw the victim  
6 was in the courtroom. He stated  
7 that he did not know the victim,  
8 denying the victim's statement  
9 that they were once friends.  
10 Escalante states that he did not  
11 speak English at the time of his  
12 arrest and argues, how could he  
13 have been friends with the  
14 English-speaking victim.  
15 Escalante pointed out the fact  
16 that if he was guilty of this  
17 crime, he would have fled the  
18 jurisdiction and not remained in  
19 the same area. Escalante also  
20 stated that he never had a knife."

21 Comments, counsel.

22 **ATTORNEY HURST:** Actually, I do have one  
23 comment, and you know, it was a terrible crime,  
24 but I would note that on page ten of the  
25 appellate report that there is an indication  
26 that there was insufficient evidence to  
27 establish permanent brain damage, although there

1 was obviously an alternate theory to support the  
2 conviction. But nevertheless, I think that's of  
3 some importance.

4 **PRESIDING COMMISSIONER PEREZ:** Thank you.

5 In terms of the inmate's criminal record, the  
6 record reflects that you have a US INS Hold to  
7 Honduras. There is no juvenile arrest record  
8 noted in the file. The record does reflect that  
9 you were arrested by the Los Angeles Police  
10 Department for transporting and sales of  
11 controlled substance. In 1988 you were  
12 convicted of a felony and sentenced to 36 months  
13 probation, 180 days in jail, a fine, and a  
14 suspended prison sentence. In April of 1989,  
15 sir, you were arrested by the Los Angeles Police  
16 Department for murder. You were subsequently  
17 released due to lack of corpus. Again, in 1989  
18 you were arrested by the Los Angeles Police  
19 Department for being a felon addict in  
20 possession of a firearm. You were convicted of  
21 a misdemeanor and sentenced to probation and  
22 jail. In 1990 you were arrested by the Los  
23 Angeles Police Department for grand theft auto.  
24 You were released due to lack of sufficient  
25 evidence. Again, in 1990, you were arrested for  
26 possession of narcotics, controlled substance.  
27 A warrant was issued for possession of bad

1 checks, money order. No disposition is noted.  
2 Again, in 1990, you were arrested by the Los  
3 Angeles Police Department for transportation,  
4 sales of narcotics and controlled substance, and  
5 in September of 1990 a warrant was issued.  
6 Again, in 1990, you were arrested by the Los  
7 Angeles Police Department for attempted murder  
8 which is part of the commitment offense.  
9 Comments, counsel.

10 **ATTORNEY HURST:** Yes. I do have a couple  
11 of comments there. There are several of these  
12 that were arrests that did not result in  
13 convictions, but, however, there were two that  
14 were deemed not arrests but detained only, and  
15 that would be 4/14/89, arrest for murder. That  
16 was not an arrest, and I think 3/13/90, the  
17 grand theft vehicle, that was a detained only as  
18 well according to the rap sheet.

19 **PRESIDING COMMISSIONER PEREZ:** Okay.  
20 Thank you. Do you have anything else?

21 **ATTORNEY HURST:** No. That's it.

22 **PRESIDING COMMISSIONER PEREZ:** In terms  
23 of the inmate's personal factors, the record  
24 reflects that he was about 21 at the time of the  
25 offense, and he's currently approximately 36  
26 years of age. Escalante is one of five children  
27 born to Debra and Jose Escalante in Honduras.

1 Escalante's father and two brothers still reside  
2 in Honduras. They came to the United States  
3 from Honduras in 1984. He has two sisters who  
4 currently live in Southern California. His  
5 mother passed away in 1988. The record reflects  
6 he has no children, and he's never been married.  
7 Furthermore, the record reflects that you  
8 attended school in Honduras until the age of 13,  
9 never serving in the Armed Forces. The record  
10 reflects Escalante claims that he began drinking  
11 alcohol at the age of 16. At the time of his  
12 arrest he was consuming approximately two six  
13 packs weekly. He claims he began smoking  
14 marijuana at the age of 19, and at the time of  
15 his arrest, he was smoking marijuana  
16 approximately two joints weekly. He claims he  
17 began snorting cocaine at the age of 26, and at  
18 the time of his arrest, he was spending  
19 approximately 100 dollars weekly to support his  
20 habit. The POR further states, indicates, that  
21 Escalante supported himself through day work  
22 either in construction or pool cleaning. He  
23 made about 50 to 60 dollars an hour when work  
24 was available. There was no gang affiliation  
25 noted. There is no history of sexual deviation  
26 or mental disorder. Escalante is currently 37  
27 years old. There are no medical problems noted

1 at this time. Any comments, counsel?

2 **ATTORNEY HURST:** No, no comments.

3 **DEPUTY DISTRICT ATTORNEY DELAVIGNE:** It  
4 was 50 or 60 dollars a day.

5 **PRESIDING COMMISSIONER PEREZ:** Did I say  
6 something else?

7 **DEPUTY DISTRICT ATTORNEY DELAVIGNE:** You  
8 said an hour.

9 **PRESIDING COMMISSIONER PEREZ:** Okay. A  
10 day. That would be pretty good if it was 50 to  
11 60 dollars an hours. Okay. Now, sir, we get to  
12 the portion where are willing to, the portion  
13 where you are willing to speak with us, your  
14 future plans. The record reflects you have a US  
15 INS Hold; is that correct?

16 **INMATE ESCALANTE:** Yes.

17 **PRESIDING COMMISSIONER PEREZ:** Okay. It  
18 is your plan upon your release to parole given  
19 the fact that more likely than not you would be  
20 deported to Honduras.

21 **INMATE ESCALANTE:** Yes.

22 **PRESIDING COMMISSIONER PEREZ:** That you  
23 would either live with your brother or your  
24 cousin in Honduras.

25 **INMATE ESCALANTE:** Yes.

26 **PRESIDING COMMISSIONER PEREZ:** Okay.  
27 Were you in this country illegally?

1           **INMATE ESCALANTE:**   Illegally, yeah.

2           **PRESIDING COMMISSIONER PEREZ:**   Okay.   So  
3   you didn't, did you have a green card or  
4   anything?

5           **INMATE ESCALANTE:**   No.

6           **PRESIDING COMMISSIONER PEREZ:**   No  
7   permission?

8           **INMATE ESCALANTE:**   No.

9           **PRESIDING COMMISSIONER PEREZ:**   So there  
10   is probably very small chance that you would  
11   remain in the US, right?

12          **INMATE ESCALANTE:**   Yes.

13          **PRESIDING COMMISSIONER PEREZ:**   Okay.   In  
14   terms of your employment plans, the record  
15   reflects that it is your plan to work with an  
16   electrician or a plumber and that you have  
17   experience in both of those fields.

18          **INMATE ESCALANTE:**   Yes.

19          **PRESIDING COMMISSIONER PEREZ:**   Where did  
20   you gain that experience, sir?

21          **INMATE ESCALANTE:**   My dad.

22          **PRESIDING COMMISSIONER PEREZ:**   Pardon me?

23          **INMATE ESCALANTE:**   My father.

24          **PRESIDING COMMISSIONER PEREZ:**   From your  
25   father, both of them?

26          **INMATE ESCALANTE:**   Yes.

27          **PRESIDING COMMISSIONER PEREZ:**   Both of

1    them, very good. Have you completed some  
2    vocations within the institution that you would  
3    be able to utilize?

4           **INMATE ESCALANTE:** No, not here.

5           **PRESIDING COMMISSIONER PEREZ:** Not here,  
6    okay, but you have some experience as an  
7    electrician and a plumber.

8           **INMATE ESCALANTE:** Yes.

9           **PRESIDING COMMISSIONER PEREZ:** And you  
10   learned those skills from your father.

11          **INMATE ESCALANTE:** Yes.

12          **PRESIDING COMMISSIONER PEREZ:** And this  
13   was where, in Honduras or here?

14          **INMATE ESCALANTE:** Honduras.

15          **PRESIDING COMMISSIONER PEREZ:** In  
16   Honduras. Okay. Very good. Sir, you have a  
17   letter of support, right?

18          **INMATE ESCALANTE:** Yes.

19          **PRESIDING COMMISSIONER PEREZ:** Okay. It  
20   looks to me like you have several. Let me read  
21   into the record the first one, the one that was  
22   provided by your counsel, and this is your  
23   niece.

24          **INMATE ESCALANTE:** My niece, yes.

25          **PRESIDING COMMISSIONER PEREZ:** Carla  
26   Figueroa, right. This letter is dated December  
27   4<sup>th</sup>, 2005. Now, she lives where, in Honduras?



1           **INMATE ESCALANTE:** No. She lives in  
2 Canoga Park.

3           **PRESIDING COMMISSIONER PEREZ:** She lives  
4 in Canoga. Where is it, Canoga Park?

5           **INMATE ESCALANTE:** Yes.

6           **PRESIDING COMMISSIONER PEREZ:** Okay. The  
7 letter, this letter, again, is from your niece,  
8 and she, in the letter she does convey her  
9 support for you, and she further states,

10           "I would like to ask you to  
11 consider his good conduct in all  
12 these years he has been in there  
13 and give him his freedom back. He  
14 is a good man, and I am willing to  
15 help him in any way that I can."

16 Right. And then we have another letter from  
17 David Jonathon Escalante, and he is your  
18 brother.

19           **INMATE ESCALANTE:** My brother, younger  
20 brother.

21           **PRESIDING COMMISSIONER PEREZ:** And he  
22 lives where? Where does he live?

23           **INMATE ESCALANTE:** Honduras.

24           **PRESIDING COMMISSIONER PEREZ:** Honduras.

25 Okay. And this letter is dated May 5<sup>th</sup>, 2005.

26 In the letter he writes,

27           "I wish to inform you that prison,

1           that my brother is in prison, and  
2           I would like to plead to you if  
3           he, if one day he were to come  
4           back to Honduras, he would be  
5           living in his own house beside me  
6           and my family which would be,  
7           which and we would be waiting for  
8           him with open arms."

9   Now, does your brother own a couple of houses?

10           **INMATE ESCALANTE:** Yeah.

11           **PRESIDING COMMISSIONER PEREZ:** Okay. One  
12   of them is right next door to the home that he  
13   lives?

14           **INMATE ESCALANTE:** Yeah.

15           **PRESIDING COMMISSIONER PEREZ:** Okay. So  
16   that is the one that you would live in?

17           **INMATE ESCALANTE:** Yes.

18           **PRESIDING COMMISSIONER PEREZ:** Okay.  
19   Very good. And then we have another letter, and  
20   this is from Juan Dela Guzvonsaka (phonetic)  
21   (indiscernible).

22           **INMATE ESCALANTE:** (Indiscernible.)

23           **PRESIDING COMMISSIONER PEREZ:** And what  
24   is that?

25           **INMATE ESCALANTE:** It's a college  
26   building. He owns it, and he got work for me  
27   over there.

1           **PRESIDING COMMISSIONER PEREZ:** And he's  
2 got work for you.

3           **INMATE ESCALANTE:** Yes.

4           **PRESIDING COMMISSIONER PEREZ:** Okay. So  
5 it's an institution of higher learning.

6           **INMATE ESCALANTE:** It's like a college  
7 place.

8           **PRESIDING COMMISSIONER PEREZ:** A college  
9 place.

10          **INMATE ESCALANTE:** Yeah. He bought the  
11 building, and he rent it for.

12          **PRESIDING COMMISSIONER PEREZ:** Oh, I see,  
13 I see. Okay. So he owns the building.

14          **INMATE ESCALANTE:** He owns the building.

15          **PRESIDING COMMISSIONER PEREZ:** Where  
16 education is offered.

17          **INMATE ESCALANTE:** Yes.

18          **PRESIDING COMMISSIONER PEREZ:** In the  
19 letter he writes, I wish to give this friend -  
20 he's a friend of yours.

21          **INMATE ESCALANTE:** Yes.

22          **PRESIDING COMMISSIONER PEREZ:** You've  
23 known him for years.

24          **INMATE ESCALANTE:** Yeah. When I was a  
25 little boy over there.

26          **PRESIDING COMMISSIONER PEREZ:** Over  
27 there. Okay.

1 "I would like to give this friend  
2 the opportunity to make a better  
3 person by offering him a job as an  
4 English teacher for my school as  
5 well as other management duties  
6 that he knows, by which I will be  
7 paying him 421 dollars."

8 Right?

9 INMATE ESCALANTE: Yes.

10 PRESIDING COMMISSIONER PEREZ: Is it  
11 8,000 (indiscernible), or what are they?

12 INMATE ESCALANTE: Lempiras.

13 PRESIDING COMMISSIONER PEREZ: What is  
14 it?

15 INMATE ESCALANTE: Lempiras.

16 PRESIDING COMMISSIONER PEREZ: Lempiras.

17 Okay. A month which equates 421 dollars a  
18 month.

19 INMATE ESCALANTE: Yes.

20 PRESIDING COMMISSIONER PEREZ: And you  
21 can make a living on 421 dollars a month in  
22 Honduras?

23 INMATE ESCALANTE: Yes.

24 PRESIDING COMMISSIONER PEREZ: Okay.

25 It's a lot less expensive than here, right?

26 INMATE ESCALANTE: Yeah, it is.

27 PRESIDING COMMISSIONER PEREZ: Sir, are

1   there any other letters of support, offers of  
2   -- what I'm looking for mainly is offers of  
3   employment or offers of residence. Are there  
4   any other?

5           **INMATE ESCALANTE:** That's the only one I  
6   have.

7           **PRESIDING COMMISSIONER PEREZ:** Pardon me?

8           **INMATE ESCALANTE:** That's the only one I  
9   have.

10          **PRESIDING COMMISSIONER PEREZ:** That's the  
11   only one you have.

12          **INMATE ESCALANTE:** Yeah.

13          **PRESIDING COMMISSIONER PEREZ:** Okay. So  
14   we've already entered into the record everything  
15   about your parole plans, right?

16          **INMATE ESCALANTE:** Yes.

17          **PRESIDING COMMISSIONER PEREZ:** Okay.

18   Very good. Sir, pursuant to Penal Code Section  
19   3042, notices were sent to agencies that would  
20   have a direct interest in your case, such as the  
21   Public Defenders Office, law enforcement, and  
22   Superior Court, and the District Attorney's  
23   Office. And I note that although we didn't get  
24   anything in writing from any of those entities,  
25   we do have the District Attorney from Los  
26   Angeles County who will be making a statement  
27   prior to the conclusion of this hearing. Okay.

1 At this time, Commissioner Morris will discuss  
2 with you what you've been doing within the  
3 institutions. Okay.

4 **DEPUTY COMMISSIONER MORRIS:** Okay. Mr.  
5 Escalante, your last hearing was May 27<sup>th</sup> of  
6 '03.

7 **INMATE ESCALANTE:** Yeah.

8 **DEPUTY COMMISSIONER MORRIS:** And at that  
9 time you had a two-year denial.

10 **INMATE ESCALANTE:** Yes.

11 **DEPUTY COMMISSIONER MORRIS:** Okay. It  
12 looks like you were received 4/18 of '91, and  
13 I'll just kind of quickly go through your  
14 movement through the institution here since you  
15 were received at CCI Reception Center. That's  
16 April 18 of '91. On June of '91, you were  
17 transferred to Pelican Bay. In July of '93, you  
18 were transferred to State Prison, Los Angeles  
19 County. So you were down there for the opening  
20 of that one.

21 **INMATE ESCALANTE:** Yeah. Lancaster.

22 **DEPUTY COMMISSIONER MORRIS:** And it looks  
23 like October 9 of '97, you were transferred to,  
24 is it Ironwood State Prison. And on 7/8 of '98,  
25 you were transferred here, CTF, and that's where  
26 you -- okay, you've been here since '98.

27 **INMATE ESCALANTE:** Yes.

1           **DEPUTY COMMISSIONER MORRIS:** Okay. As I  
2 go through the file, I see several chronos  
3 talking about various Adult Basic Education test  
4 scores. I see a test score of 5.0, 6.4, 6.7. I  
5 also see a GED that you earned dated October 13  
6 of 2000.

7           **INMATE ESCALANTE:** Yes.

8           **DEPUTY COMMISSIONER MORRIS:** Okay. With  
9 that GED completed, have you been able to  
10 participate in or complete any vocational  
11 programs?

12           **INMATE ESCALANTE:** No. They got me on  
13 the waiting list.

14           **DEPUTY COMMISSIONER MORRIS:** Okay. Since  
15 1991?

16           **INMATE ESCALANTE:** Yes.

17           **DEPUTY COMMISSIONER MORRIS:** Okay. I see  
18 that you're on the bulk computer waitlist. I  
19 saw that. I saw machine shop waitlist.

20           **INMATE ESCALANTE:** Yes.

21           **DEPUTY COMMISSIONER MORRIS:** What's the  
22 bar to getting in? What's the problem? Why  
23 can't you get into a vocation?

24           **INMATE ESCALANTE:** You got to wait  
25 because the list is long.

26           **DEPUTY COMMISSIONER MORRIS:** Well, we're  
27 talking 14 years down the road now.

1           **INMATE ESCALANTE:** No. I'm on the  
2 waiting list since after I got my GED.

3           **DEPUTY COMMISSIONER MORRIS:** Okay. In  
4 2000.

5           **INMATE ESCALANTE:** Yes.

6           **DEPUTY COMMISSIONER MORRIS:** Okay.  
7 That's right. So you were not eligible until  
8 you got the GED.

9           **INMATE ESCALANTE:** Right.

10          **DEPUTY COMMISSIONER MORRIS:** Okay. Now,  
11 as I review your C-File, I also see that you  
12 were involved in those ABE classes all through  
13 the '90s.

14          **INMATE ESCALANTE:** Yes.

15          **DEPUTY COMMISSIONER MORRIS:** Okay. And  
16 that got you to the point where you could pass  
17 your GED. After that, what did you do? What  
18 are you doing now? Are you working anywhere?

19          **INMATE ESCALANTE:** I'm working on the  
20 Chapel, Catholic Chapel.

21          **DEPUTY COMMISSIONER MORRIS:** Say that  
22 again slowly.

23          **INMATE ESCALANTE:** Catholic Chapel.

24          **DEPUTY COMMISSIONER MORRIS:** Are you a  
25 clerk over there?

26          **INMATE ESCALANTE:** No. I'm the porter.

27          **DEPUTY COMMISSIONER MORRIS:** Porter?



1           **INMATE ESCALANTE:** Yes.

2           **DEPUTY COMMISSIONER MORRIS:** And when did  
3 you become a porter?

4           **INMATE ESCALANTE:** Right after I got my  
5 GED.

6           **DEPUTY COMMISSIONER MORRIS:** So you've  
7 been a porter since --

8           **INMATE ESCALANTE:** In 2000, December  
9 2000.

10          **DEPUTY COMMISSIONER MORRIS:** In 2000,  
11 December 2000?

12          **INMATE ESCALANTE:** Yeah.

13          **DEPUTY COMMISSIONER MORRIS:** So all of  
14 2003 through today.

15          **INMATE ESCALANTE:** Yes.

16          **DEPUTY COMMISSIONER MORRIS:** Okay. And  
17 can I assume that your supervisory work reports  
18 are satisfactory?

19          **INMATE ESCALANTE:** Yeah.

20          **DEPUTY COMMISSIONER MORRIS:** Huh?

21          **INMATE ESCALANTE:** Yes. I have some.

22          **ATTORNEY HURST:** Under notices and  
23 responses there is actually a letter.

24          **DEPUTY COMMISSIONER MORRIS:** I don't see  
25 it. I see '98, '98, Catholic Chapel,  
26 (indiscernible) George Martin.

27          **INMATE ESCALANTE:** Yeah.

1           **DEPUTY COMMISSIONER MORRIS:** Is that who  
2 you work for?

3           **INMATE ESCALANTE:** No. Now, I work for  
4 Chaplain Christine.

5           **DEPUTY COMMISSIONER MORRIS:** Okay. I see  
6 a chrono dated 4/11 of 2003, with exceptional  
7 reports. Before that, I see you were - it looks  
8 like you tried machine shop, a machine or  
9 something like that. What happened with that?

10          **INMATE ESCALANTE:** I was moved here. I  
11 was in North (indiscernible).

12          **DEPUTY COMMISSIONER MORRIS:** That's  
13 right, North. They had a class for you at  
14 North, but you had to move out of there.

15          **INMATE ESCALANTE:** Yeah. I think the  
16 class was closed.

17          **DEPUTY COMMISSIONER MORRIS:** Okay. In  
18 2000, you were at North. Catholic Chapel, with  
19 satisfactory work reports, and the only other  
20 chrono I see after that -- that's the last  
21 chrono.

22          **INMATE ESCALANTE:** I have one from  
23 Christine, my new boss Christine Manyamana  
24 (phonetic).

25          **DEPUTY COMMISSIONER MORRIS:** Okay. And  
26 what does she say about you?

27          **INMATE ESCALANTE:** There's a letter

1 there. I haven't read it yet.

2 **DEPUTY COMMISSIONER MORRIS:** Did she give  
3 it to you?

4 **ATTORNEY HURST:** Here, it's under notices  
5 and responses rather than a chrono.

6 **DEPUTY COMMISSIONER MORRIS:** Then why  
7 would it go to the file if you haven't seen it,  
8 you don't know anything about it?

9 **INMATE ESCALANTE:** Yeah. I put them in  
10 the file there.

11 **DEPUTY COMMISSIONER MORRIS:** The question  
12 is what do you know about it?

13 **INMATE ESCALANTE:** No. She asked me  
14 about my -

15 **DEPUTY COMMISSIONER MORRIS:** Talk to me  
16 now. I'm asking you about your last supervisory  
17 report. That's who you work for now, right?

18 **INMATE ESCALANTE:** Yeah.

19 **DEPUTY COMMISSIONER MORRIS:** Christine?

20 **INMATE ESCALANTE:** Yeah, Christine.

21 **DEPUTY COMMISSIONER MORRIS:** What does  
22 Christine say about you?

23 **INMATE ESCALANTE:** It's right there.

24 **DEPUTY COMMISSIONER MORRIS:** I'm asking  
25 you.

26 **PRESIDING COMMISSIONER PEREZ:** Did you  
27 read the letter?

1           **INMATE ESCALANTE:** No. I don't have it.

2           **DEPUTY COMMISSIONER MORRIS:** Okay. See,  
3 I don't understand how you could possibly have  
4 something in your file that you don't know  
5 about. That's suspicious to me. It doesn't  
6 sound right. March 10 of '05, March 10 of '05.  
7 Okay. All right. Does anyone else have any  
8 good things to say about you?

9           **INMATE ESCALANTE:** No.

10          **DEPUTY COMMISSIONER MORRIS:** Okay. And  
11 as I indicated, that chrono is not in the file,  
12 so what do -- do you know what you need to do  
13 with that?

14          **INMATE ESCALANTE:** No.

15          **DEPUTY COMMISSIONER MORRIS:** You said  
16 you've given, have you given it to your  
17 counselor?

18          **INMATE ESCALANTE:** Yeah.

19          **DEPUTY COMMISSIONER MORRIS:** Okay. So  
20 the counselor is going to see that it gets to  
21 the file maybe.

22          **INMATE ESCALANTE:** Yeah. That in the  
23 file.

24          **DEPUTY COMMISSIONER MORRIS:** But before  
25 he does that, hopefully, you'll read it before  
26 you -- you need to know what goes in your file.  
27 Have you ever reviewed your file?

1           **INMATE ESCALANTE:** Yeah, I did.

2           **DEPUTY COMMISSIONER MORRIS:** Okay.

3           **ATTORNEY HURST:** Commissioner Morris.

4           **DEPUTY COMMISSIONER MORRIS:** Yes.

5           **ATTORNEY HURST:** I'm just noting -- this  
6 is the notes that I took from the C-File, not  
7 from this file but from the C-File, and I did  
8 note it, so it would appear that I found it  
9 somewhere in the C-File.

10          **DEPUTY COMMISSIONER MORRIS:** Okay.

11          **ATTORNEY HURST:** At that time.

12          **DEPUTY COMMISSIONER MORRIS:** Okay.

13          **ATTORNEY HURST:** Which was about two and  
14 a half weeks ago.

15          **DEPUTY COMMISSIONER MORRIS:** Okay. Well,  
16 it's not where it's supposed to be today. It  
17 should be right here. I may run across it by  
18 and by, but it's not where it's supposed to be,  
19 and these things are listed in chronological  
20 order.

21          **ATTORNEY HURST:** Well, I don't think it  
22 was filed as a chrono but either in  
23 miscellaneous or back in parole.

24          **DEPUTY COMMISSIONER MORRIS:** Maybe it's a  
25 general chrono or something, but it's not, it's  
26 not as a supervisory work report which is what  
27 I'm looking at right now.

1           **ATTORNEY HURST:** Right. You're right.

2           **DEPUTY COMMISSIONER MORRIS:** It may be a  
3 different document. Okay. We'll get there.  
4 Okay. That chapel porter, is that a pay number?

5           **INMATE ESCALANTE:** Yes.

6           **DEPUTY COMMISSIONER MORRIS:** Okay. And  
7 what do you earn there?

8           **INMATE ESCALANTE:** Twenty dollar.

9           **DEPUTY COMMISSIONER MORRIS:** Okay. All  
10 right. Anything else about your work or  
11 vocations that we need to talk about? Did we  
12 miss anything?

13          **INMATE ESCALANTE:** No.

14          **DEPUTY COMMISSIONER MORRIS:** Okay. All  
15 right. Let me, let me ask you about self-help,  
16 and I notice that you've got alcohol, marijuana,  
17 cocaine in your history, and I see a number of  
18 chronos in your file it seems like from about  
19 1995 through '04, with through '05, chronos  
20 talking about AA participation. So you've  
21 participated?

22          **INMATE ESCALANTE:** Yeah.

23          **DEPUTY COMMISSIONER MORRIS:** With some  
24 regularity?

25          **INMATE ESCALANTE:** Well, you know, once  
26 in a while if you wish you talk, you can get up.

27          **DEPUTY COMMISSIONER MORRIS:** Okay. Have

1 you learned anything about the 12 Steps?

2 **INMATE ESCALANTE:** Yeah.

3 **DEPUTY COMMISSIONER MORRIS:** What's  
4 Number Nine?

5 **INMATE ESCALANTE:** Huh? Number Nine?  
6 Made direct amends to such people except when to  
7 do so would injure them or others.

8 **DEPUTY COMMISSIONER MORRIS:** Okay. Good.  
9 I also see that you've taken some classes. This  
10 goes back way before your last hearing, but I'm  
11 just going to bring it forward anyway. You took  
12 some health classes, health care classes, having  
13 to do with HIV, AIDS, TB, sexually transmitted  
14 disease, Tuberculosis, those kind of things, and  
15 that was in '02.

16 **INMATE ESCALANTE:** Yes.

17 **DEPUTY COMMISSIONER MORRIS:** And I see in  
18 '05, the only thing I see in terms of  
19 participating in anything is the soccer league.  
20 Have you done anything else besides the soccer  
21 league?

22 **INMATE ESCALANTE:** Well, I've done Anger  
23 Management. I've done the Impact Program.

24 **DEPUTY COMMISSIONER MORRIS:** What year  
25 did you -- you did Anger Management in '05, this  
26 year?

27 **INMATE ESCALANTE:** No, no, not this year.

1           **DEPUTY COMMISSIONER MORRIS:**   Okay.   What  
2   else have you done since?

3           **INMATE ESCALANTE:**   I just go to the  
4   regular meetings.

5           **DEPUTY COMMISSIONER MORRIS:**   What else  
6   have you done besides AA in '03?

7           **INMATE ESCALANTE:**   AA and NA.

8           **DEPUTY COMMISSIONER MORRIS:**   Okay.   So  
9   just AA.

10          **INMATE ESCALANTE:**   Yes.

11          **DEPUTY COMMISSIONER MORRIS:**   Okay.

12          **INMATE ESCALANTE:**   And NA.

13          **DEPUTY COMMISSIONER MORRIS:**   AA and NA.

14   Right.   All right.   All right.   Let me move on  
15   to the psych report.   Okay.   I'm looking at a  
16   mental health evaluation dated December 7 of  
17   '05.   This document is authored by, it looks  
18   like Petracek, the contract psychologist, and  
19   I'm looking at diagnosis here on page three.  
20   It's the second section from the bottom.   Under  
21   Axis I, you're listed as Poly-substance Abuse,  
22   as having Poly-substance Abuse by History and  
23   that is in Institutional Remission; Axis II is  
24   Deferred; Axis III, None; Axis IV is  
25   Psychosocial Stressors to Include Incarceration;  
26   Axis V, the Global Assessment Functioning test,  
27   commonly called a GAF Score is 75.   I'm looking



1 at assessment of dangerousness, and Petracek  
2 indicates that within a controlled setting your  
3 risk is minimal. If released in the community,  
4 the risk is -- or if released into the  
5 community, the risk is also minimal.  
6 Significant risk factors, precursors to  
7 violence, are his past alcohol and substance  
8 abuse, and relapse would increase his risk of  
9 violence, risk for violence and due to gains he  
10 has made, he has not received any CDC 115s and  
11 has matured since being incarcerated. Under  
12 comments and recommendations, she goes on to say  
13 that if paroled you should be mandated to attend  
14 both NA, AA and have frequent, periodic drug  
15 testing for alcohol and illegal substances. She  
16 says that this inmate's still denies any  
17 responsibility for his crime. He needs to  
18 develop some insight or reasonable explanation  
19 before being considered for parole. Those  
20 comments were authored by Petracek. And having  
21 heard that, do you take exception to any part of  
22 that, or do you agree with that?

23 **INMATE ESCALANTE:** Agree with what?

24 **DEPUTY COMMISSIONER MORRIS:** Anything  
25 that she just said about you, do you take  
26 exception to any of that, or is it pretty much  
27 right on?

1           **INMATE ESCALANTE:** It's all right.

2           **DEPUTY COMMISSIONER MORRIS:** It's okay?

3           **INMATE ESCALANTE:** It's okay.

4           **DEPUTY COMMISSIONER MORRIS:** Okay. All  
5 right. Is there anything else we need to talk  
6 about, about your post-conviction factors that,  
7 post-conviction factors that I missed?

8           **INMATE ESCALANTE:** No.

9           **DEPUTY COMMISSIONER MORRIS:** Okay. I  
10 yield it to the Chair.

11           **PRESIDING COMMISSIONER PEREZ:** Thank you.  
12 At this time, I would like to give the DA the  
13 opportunity to ask questions through the Chair,  
14 please.

15           **DEPUTY DISTRICT ATTORNEY DELAVIGNE:** No  
16 questions.

17           **PRESIDING COMMISSIONER PEREZ:** Counsel.

18           **ATTORNEY HURST:** No questions.

19           **PRESIDING COMMISSIONER PEREZ:** Mr.  
20 Morris.

21           **DEPUTY COMMISSIONER MORRIS:** None.

22           **PRESIDING COMMISSIONER PEREZ:** Closing  
23 statement, please.

24           **DEPUTY DISTRICT ATTORNEY DELAVIGNE:** I  
25 have nothing to address. Until the inmate gains  
26 some insight into what he did and makes some  
27 comment about it, I have nothing to say except

1 to oppose a finding of suitability.

2 **PRESIDING COMMISSIONER PEREZ:** Thank you.  
3 Counsel.

4 **ATTORNEY HURST:** Okay. I don't have a  
5 lot to say either. Mr. Escalante's position on  
6 the life crime has been placed on the record  
7 before, and we know you have to accept the  
8 conviction, and he's been down nearly 15 years  
9 on this crime, so he's doing the time for it.  
10 And he's done quite a good job certainly in the  
11 area of disciplinaries, no 115s at all. That's  
12 not really easy. He's in the broad areas of  
13 educational and vocational upgrading. He has  
14 achieved his GED in the year 2000, and he's  
15 currently on several waiting lists. He did  
16 state to you that he has plumbing and electrical  
17 experience in the past. Self-help, there has  
18 been some. There has been the Impact Program  
19 and continued participation in AA and NA. The  
20 most recent psych report, I'm not really sure  
21 what that report says. It says that he is a  
22 minimal risk if he's released to the community  
23 which I would assume is what we're looking for.  
24 That is what we're looking for today, and she  
25 notes he has no 115s, and he has matured. On  
26 the other hand, she questions his insight if he  
27 committed the crime, and he has been convicted

1 of it, then he may be lacking in insight. If he  
2 didn't, of course, he's lacking in knowledge of  
3 it. So I can understand the doctor doesn't have  
4 too many choices in her conclusion there. He  
5 does have parole plans though, and very much to  
6 his credit, he has developed dual parole plans  
7 so that he would have a place to live if he  
8 remains in the United States and a place to live  
9 and work if he is deported. So he's made some  
10 preparation. I think he's serious about  
11 preparing himself. I just ask you to consider  
12 the positive things he's accomplished. Submit  
13 it.

14 **PRESIDING COMMISSIONER PEREZ:** All right.  
15 Thank you. Sir, this is your opportunity to  
16 provide a statement to the Panel regarding your  
17 suitability for parole. Tell us why you feel  
18 that you are suitable for parole.

19 **INMATE ESCALANTE:** First of all, I wish  
20 an apology to the victim and the victim's  
21 family, and the People of California, also, my  
22 family, and say I'm not a threat to public  
23 safety, and I'm a changed person.

24 **PRESIDING COMMISSIONER PEREZ:** Thank you,  
25 sir. We will now recess for deliberations. The  
26 time is 4:44 p.m.

27

R E C E S S

1                   **CALIFORNIA BOARD OF PAROLE HEARINGS**

2                   **D E C I S I O N**

3                   **DEPUTY COMMISSIONER MORRIS:** Back on  
4 record.

5                   **PRESIDING COMMISSIONER PEREZ:** Sir, the  
6 Panel has reviewed all the information received  
7 from the public and relied on the following  
8 circumstances in concluding that you are not  
9 suitable for parole and that you would pose an  
10 unreasonable risk of danger to society or a  
11 threat to public safety if released from prison  
12 at this time. Sir, one of the main factors that  
13 we took into consideration is the gravity of the  
14 offense in that after reviewing the facts of  
15 this crime, it is the opinion of this Panel that  
16 the offense was carried out in an especially  
17 cruel and callous manner in that the victim was  
18 hit and kicked and knocked to the ground. Once  
19 he was on the ground, the record reflects that  
20 you grabbed him by the hair and stabbed him in  
21 the eye resulting in the loss, permanent loss,  
22 of sight in that particular eye as well as a  
23 frontal lobotomy. The offense was carried out  
24 in a dispassionate and calculated manner in that  
25 the record reflects that you asked to borrow the  
26 victim's car. When he refused, you left. You  
27 **JUSTO ESCALANTE E-91258 DEC. PAGE 1 12/15/05**

1 returned with three of your friends. You waited  
2 for the victim to come back to his vehicle, and  
3 it is at that point that he was attacked and  
4 stabbed. The offense was carried out in a  
5 manner which demonstrates an exceptionally  
6 callous disregard for human suffering in that it  
7 is unimaginable the physical and emotional  
8 trauma this victim endured during the beating as  
9 well as the physical and emotionally, mental  
10 issues that he will endure for the rest of his  
11 life as a result of having permanent loss of  
12 sight in one eye as well as a frontal lobotomy  
13 and that the negative effects that go with that.  
14 Sir, these conclusions are drawn from the  
15 Statement of Facts wherein according to the  
16 record, on September 10<sup>th</sup>, 1990, at  
17 approximately 4:20 p.m. you got in an argument.  
18 You and the victim were involved in an argument.  
19 You wanted to borrow the victim's car. He  
20 refused. You left. You came back with your  
21 friends. You and your friends started hitting  
22 and kicking the victim. When the victim was  
23 down, you struck the victim in the eye with a  
24 knife penetrating the brain. The other factor  
25 that we took into consideration, sir, is that  
26 you entered this country in approximately 1984,  
27 **JUSTO ESCALANTE E-91258 DEC. PAGE 2 12/15/05**

1 and four years later, you were already  
2 entrenched in the criminal, in criminal  
3 activities in that you were arrested on a number  
4 of occasions prior to the commitment offense for  
5 drug-related offenses to include transportation  
6 and sales of narcotics and controlled substance,  
7 murder, possession of a firearm, grand theft  
8 vehicle, possession of narcotic, controlled  
9 substance, possession of bad checks and money  
10 orders. One of those offenses resulted in a  
11 conviction for which you were sentenced, a  
12 felony conviction for which you were sentenced  
13 to 180 days in jail, fined, and 36 months  
14 probation. We note for the record that prior to  
15 the commitment offense you had failed to profit  
16 from society's previous attempts to correct your  
17 criminality. Such attempts include adult  
18 probation and county jail, again, for  
19 transportation and sales of controlled  
20 substance. The record reflects that you have an  
21 unstable social history and prior criminality as  
22 previously outlined which includes the arrest  
23 and, or convictions that were previously noted  
24 to include the use of marijuana and cocaine.  
25 Sir, since you've been incarcerated, you have  
26 programmed in a limited manner. You are to be

1 commended for not having incurred any 115s  
2 throughout your entire incarceration. However,  
3 the record reflects that you have not completed  
4 any vocations throughout the entire time that  
5 you have been in prison. And although you have  
6 taken advantage of some self-help programs  
7 within the institution, sir, you have not  
8 sufficiently participated in beneficial self-  
9 help specifically to address the issue of  
10 insight. The most recent psychological report,  
11 sir, that was also taken into consideration is  
12 somewhat contradictory but at the same time it  
13 is not totally supportive of release. This  
14 particular report was prepared by Contract  
15 Psychologist Laura Petracek, P-E-T-R-A-C-E-K,  
16 dated December 8<sup>th</sup>, 2005, in which she indicates  
17 that you your risk if released to the community  
18 is minimal; however, she further states this  
19 inmate still denies any responsibility for his  
20 crime. He needs to develop some insight or  
21 reasonable explanation before being considered  
22 for parole. Sir, in a separate decision the  
23 Hearing Panel notes that you have been convicted  
24 of aggravated mayhem with use of a deadly  
25 weapon, specifically a knife. As such, it would  
26 not be reasonable to expect that you would be  
27 **JUSTO ESCALANTE E-91258 DEC. PAGE 4 12/15/05**



1 granted parole during the next two years. So as  
2 a result, sir, we're going to deny you for two  
3 years. Again, one of the main reasons is the  
4 gravity of the offense in that it is the opinion  
5 of this Panel after reviewing the facts of this  
6 crime the offense was carried out in an  
7 especially cruel and callous manner in that the  
8 victim was hit, kicked, knocked to the ground.  
9 Once he was on the ground, you grabbed him by  
10 the hair, and you proceeded to stab him in the  
11 eye, and that stab wound penetrated into his  
12 brain resulting in permanent loss of sight in  
13 his eye as well as a frontal lobotomy. The  
14 offense was carried out in a dispassionate and  
15 calculated manner in that the record reflects  
16 that you initially approached the victim. You  
17 asked him to use his, to borrow his car. He  
18 refused. You left. You went got three of your  
19 friends. You came back. You waited by the  
20 vehicle, and then when the victim came out  
21 towards his vehicle, you and your friends  
22 proceeded to attack him, and once he hit the  
23 ground, you grabbed him by the hair, and you  
24 stabbed him in the eye, penetrating that knife  
25 into his brain. The offense was carried out in  
26 a manner which demonstrates an exceptionally  
27 **JUSTO ESCALANTE E-91258 DEC. PAGE 5 12/15/05**

1 callous disregard for human suffering in that it  
2 is unimaginable the physical and emotional  
3 trauma that this individual endured at the time  
4 of the offense and will endure for the remainder  
5 of his life as a result of the problems that he  
6 will encounter as a result of the permanent loss  
7 of sight in one eye and the frontal lobotomy,  
8 the problems that go with a frontal lobotomy.  
9 These conclusions are drawn from the Statement  
10 of Facts wherein according to the record on  
11 September 10<sup>th</sup>, 1990, you got in an argument  
12 with the victim. You and the victim were  
13 involved in an argument because you wanted to  
14 use his car. He refused to lend it to you. You  
15 went and got your friends. You returned, and  
16 when the victim came out of his residence, the  
17 residence that he was visiting and approached  
18 his vehicle, you and your friends proceeded to  
19 attack him with you grabbing him by the hair  
20 once he was on the ground and stabbing him in  
21 the eye penetrating into the brain resulting in  
22 permanent loss of sight in his right eye and a  
23 frontal lobotomy. The other factor that we took  
24 into consideration in this multi-year denial is  
25 the fact that you entered this country in 1984,  
26 and four years later you were already entrenched  
27 **JUSTO ESCALANTE E-91258 DEC. PAGE 6 12/15/05**

1 in criminal activities, specifically,  
2 transporting, transportation and sales of  
3 controlled substance in that the record reflects  
4 that you have been convicted on a number of  
5 occasions for transporting, sales of controlled  
6 substance resulting in one conviction in that  
7 you were placed on adult probation in which you  
8 were assessed county jail time. The record also  
9 reflects that you have other arrests and, or  
10 convictions, or detentions for transportation,  
11 several for transportation and sales of  
12 controlled substance, murder, (indiscernible),  
13 possession of a firearm, grand theft vehicle, as  
14 well as possession of bad checks, and possession  
15 of narcotics and controlled substances. The  
16 record also reflects that you have a history of  
17 using illicit substances as well as selling  
18 them, specifically, marijuana and cocaine.  
19 Again, we do note that it is the opinion of this  
20 Panel based on a review of the record that you  
21 have not sufficiently participated in beneficial  
22 self-help, specifically, to address the issue of  
23 insight. In addition, sir, although you have  
24 been involved in some self-help within the  
25 institutions, the record does not reflect that  
26 you have completed any vocations during the  
27 **JUSTO ESCALANTE E-91258 DEC. PAGE 7 12/15/05**

1 entire time that you have been incarcerated.  
2 Again, the most recent psychological report is  
3 not totally supportive of release, and  
4 furthermore, it is somewhat contradictory in  
5 that it indicates that if you were to be  
6 released to the community, your risk would be  
7 minimal. However, the doctor firmly states that  
8 any, that you deny any responsibility and that  
9 you need to develop some insight or at least a  
10 reasonable explanation before being considered  
11 for parole. In terms of your parole plans, sir,  
12 we do not for the record that you do have  
13 realistic parole plans in that more likely than  
14 not, given the circumstances under which you  
15 were in this country, more likely than not you  
16 would be deported to Honduras, and we do have  
17 letters in your file that support your parole  
18 plans to live with your brother and, or your  
19 cousin upon your release to parole. In  
20 addition, sir, we do not find based on a review  
21 of the record that you have a marketable skill,  
22 at least not one that you have developed since  
23 you've been incarcerated. However, you have  
24 indicated to this Panel that you have experience  
25 as an electrician or a plumber. That is  
26 questionable. Let me tell you why that is

1   questionable.  You came to this country when you  
2   were 20 -- you committed the offense when you  
3   were 21 years of age.  You came to this country  
4   four years earlier.  That would put you at the  
5   age of 17.

6           **INMATE ESCALANTE:**  No.  I was 26.

7           **PRESIDING COMMISSIONER PEREZ:**  You were  
8   26.  Okay.  When I said that, you should have  
9   corrected me, sir.  You were 26.  So that means  
10  -- you were 26 when you committed the offense?

11          **INMATE ESCALANTE:**  Yes.

12          **PRESIDING COMMISSIONER PEREZ:**  Or when  
13  the offense was committed, which means that you  
14  came to this country when you were 22.

15          **INMATE ESCALANTE:**  About 22.

16          **PRESIDING COMMISSIONER PEREZ:**  Twenty-  
17  two.  Okay.  So I would imagine it would be  
18  somewhat limited experience as an electrician or  
19  a plumber in that you were about 22 at the time  
20  you came to this country.  That doesn't mean  
21  that it's not possible that you have those  
22  skills.  I'm just saying that it seems like your  
23  skills wouldn't be extensive in that you were  
24  pretty young already when you came to this  
25  country, and you indicated that you developed  
26  those skills when you were in Honduras from your

1 father. Sir, the Hearing Panel notes that  
2 responses to Penal Code Section 3042 indicate an  
3 opposition to a finding of parole suitability by  
4 the District Attorney of Los Angeles County.

5 Sir, what year were you born?

6 **INMATE ESCALANTE:** March 26, '63.

7 **PRESIDING COMMISSIONER PEREZ:** Sixty-  
8 three. Okay. The reason I say that is because  
9 you gave me the impression that you were 21 is  
10 that your rap sheet shows that you were born in  
11 1969.

12 **INMATE ESCALANTE:** Sixty-three.

13 **PRESIDING COMMISSIONER PEREZ:** But your  
14 rap sheet also shows that you were born in 1963,  
15 and your rap sheet shows that you were born in  
16 1970, and then your rap sheet again shows us  
17 another birth date in 1963. My assumption was  
18 you were born in 1969. As indicated, you were  
19 born in 1963. Right?

20 **INMATE ESCALANTE:** I've got a birth  
21 certificate.

22 **PRESIDING COMMISSIONER PEREZ:** Okay. So  
23 that would make you about 42.

24 **INMATE ESCALANTE:** Forty-two.

25 **PRESIDING COMMISSIONER PEREZ:** Forty-two.  
26 Okay. Very good. Sir, the Panel makes the

27 **JUSTO ESCALANTE E-91258 DEC. PAGE 10 12/15/05**

1 following findings, and that is that you need to  
2 participate in more self-help and, or therapy in  
3 order to help you come to terms with the  
4 underlying cause of the commitment offense in  
5 that even though you are not required to discuss  
6 or admit to the commitment offense, you still  
7 need to be able to demonstrate some sort of  
8 insight when you come before this Panel, and you  
9 have not done that today. You have really not  
10 done that. And until progress is made, it is  
11 the opinion of this Panel that you will continue  
12 to be unpredictable and a threat to others.  
13 Nevertheless, sir, we would like to take this  
14 opportunity to commend you for not having  
15 received any 115s throughout the entire time  
16 that you have been incarcerated. That's very  
17 commendable. We understand that it can be  
18 difficult for you to maneuver through these  
19 shark-infested waters within the institution  
20 without incurring any 115s, so we certainly  
21 commend you for having the ability and the skill  
22 to not incur any disciplinaries while within the  
23 institutions. Sir, we'd also like to commend  
24 you for the multiple laudatory chronos in your  
25 file as well as for your continued participation  
26 in AA, NA; however, sir, these positive aspects  
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1 of your behavior do not outweigh the factors of  
2 unsuitability. As a result, we're going to deny  
3 you for two years. In the meantime, we make the  
4 following recommendations. We recommend, if  
5 you're able to do so, you complete at least one  
6 trade during the next two years. I imagine  
7 that's the only thing you could complete within  
8 the next two years if you were to be placed in a  
9 trade this moment because a lot of those trades  
10 do take about two years or so on the average.  
11 So if you're able to get into a trade, do that,  
12 and if you're able to complete it before you  
13 come before the Board in two years, we would  
14 certainly (indiscernible) that.

15 **DEPUTY COMMISSIONER MORRIS:** I'm turning  
16 the tape over.

17 [Thereupon, the tape was turned over.]

18 **DEPUTY COMMISSIONER MORRIS:** We're back  
19 on record.

20 **PRESIDING COMMISSIONER PEREZ:** And we  
21 recognize that. We recognize that. You got  
22 your GED in 2000, and we certainly commend you  
23 for that, and we recognize that until you either  
24 get your GED or reach a certain grade point  
25 level that they won't consider you for  
26 vocations, so we understand that. What we're

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1 saying is if you're able to do it, and you said  
2 you are on the waiting list, so if you're able  
3 to get into one of those vocations we would  
4 encourage you to take advantage of it and do it.  
5 Also, take advantage, immerse yourself in any  
6 and all self-help that might be available within  
7 the institutions. If there is nothing  
8 available, then we would recommend that you go  
9 to the library or talk to your counselor or  
10 other individuals within the institution that  
11 might have resources, if they could point you to  
12 so that you can do some self study. Okay. Do  
13 you know what I mean by self study?

14 **INMATE ESCALANTE:** Right.

15 **PRESIDING COMMISSIONER PEREZ:** If you do  
16 some self study, bring in a book report and tell  
17 us what you're learning next room to demonstrate  
18 that you're being proactive, okay, in trying to  
19 develop insight and learn a little bit more  
20 about yourself so that once you're released to  
21 parole you won't be involved in criminality.  
22 Okay. Also, we do recommend that you earn  
23 positive chronos. You have numerous positive  
24 chronos or a number of positive chronos in your  
25 file, but we recommend that if you're able to do  
26 so, continue doing this good work that you've

27 **JUSTO ESCALANTE E-91258 DEC. PAGE 13 12/15/05**

1 been doing so that you can get more laudatory  
2 chronos placed in your file. And of course,  
3 continue to remain disciplinary-free. You're  
4 doing very well so far with no 115s. We  
5 encourage you to continue in that same path.  
6 But at the same time we do note that you do have  
7 three 128s; 128s also affect you as well because  
8 one of them is a little violation. The other is  
9 bigger violation. Either way they're still  
10 violations of institutional procedures, policy,  
11 and so we recommend that you not incur any 115s  
12 or 128s. Okay. Mr. Morris.

13 **DEPUTY COMMISSIONER MORRIS:** I think  
14 you've covered everything, but Mr. Escalante  
15 just let me just encourage you to follow up on  
16 that machine shop. Okay.

17 **INMATE ESCALANTE:** I think the shop is  
18 closed.

19 **DEPUTY COMMISSIONER MORRIS:** Pardon me?

20 **INMATE ESCALANTE:** The shop is closed.  
21 It's over in North.

22 **DEPUTY COMMISSIONER MORRIS:** Okay.

23 **INMATE ESCALANTE:** I'm in Central right  
24 here.

25 **DEPUTY COMMISSIONER MORRIS:** Okay.

26 **INMATE ESCALANTE:** We have here computer

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1 and print shop. I am on the waiting list for  
2 that.

3           **DEPUTY COMMISSIONER MORRIS:** I think  
4 you're going to find that if you make contact  
5 with the supervisor of education programs that  
6 there are more than two programs available at  
7 the institution. I find that hard to believe  
8 that there are only two. But be that as it may,  
9 you check it out. Do what you can to try to  
10 complete one or at least be involved in it when  
11 you come back here. Okay. Again, you're doing  
12 a good job with the chronos, the laudatories.  
13 Keep generating those. You remain absolutely  
14 disciplinary-free. Those things will hurt you.  
15 Okay. The last negative chrono was in '98, so  
16 you're doing a pretty good job with that. Just  
17 stay the course right there and continue to  
18 participate in AA, NA, those kinds of things.  
19 Okay. That's it.

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1           **PRESIDING COMMISSIONER PEREZ:** Sir, we do  
2 wish you the best of luck. This concludes this  
3 hearing. The time is 5:12 p.m. Good luck, sir.

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23   **PAROLE DENIED TWO YEARS**  
24   **THIS DECISION WILL BE FINAL ON: Apr. 14, 2006**  
25   **YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT**  
26   **DATE, THE DECISION IS MODIFIED.**  
27   **JUSTO ESCALANTE   E-91258   DEC. PAGE 16   12/15/05**

CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, KRISTIN LEDBETTER, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 57, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF JUSTO ESCALANTE, CDC NO. E-91258, ON DECEMBER 15, 2005, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated DECEMBER 31, 2005, at Sacramento, California.

*Kristin Ledbetter*

KRISTIN LEDBETTER  
TRANSCRIBER  
**PETERS SHORTHAND REPORTING**